



Debevoise & Plimpton LLP
66 Hudson Boulevard
New York, NY 10001
+1 212 909 6000

May 17, 2023

BY ECF AND EMAIL

The Honorable Katherine Polk Failla
United States District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

Re: In re Tether and Bitfinex Crypto Asset Litigation, No. 19 Civ. 9236 (S.D.N.Y.)

Dear Judge Failla:

We write on behalf of the B/T Defendants in response to Plaintiffs' request for leave to take up to 15 depositions. (Dkt No. 351.) The B/T Defendants do not oppose Plaintiffs' motion but write to clarify a few points:

First, the B/T Defendants consented to allowing Plaintiffs to take up to 15 depositions only as a compromise in order to avoid burdening the Court with this issue; the B/T Defendants agree with Defendant Poloniex, LLC that Plaintiffs have not satisfied their burden to demonstrate cause to exceed the ten-deposition limit set forth in the Federal Rules. (Dkt. Nos. 351-3, 351-5.)

Second, notwithstanding Plaintiffs' repeated references to 15 "*initial* depositions" or an "*initial* limit" of 15 depositions (Dkt. No. 351), the B/T Defendants have made clear that their agreement is strictly limited to "a *total* of 15 depositions – inclusive of any Rule 30(b)(6) depositions, across all parties and non-parties – and no more." (Dkt. No. 351-8.)

Third, Plaintiffs state that they anticipate taking Rule 30(b)(6) depositions of "Tether" and "Bitfinex." As the B/T Defendants have reminded Plaintiffs, those are trade names, not legal entities, and therefore not the proper subject of a Rule 30(b)(6) deposition. (Dkt. No. 351-5 at 1 n.1.)

Fourth, the B/T Defendants reject Plaintiffs' suggestion that Defendants did not promptly engage with Plaintiffs on depositions. Plaintiffs should have started discussions about exceeding the ten-deposition limit long before April 10 if they were serious about deposing anywhere near 46 witnesses. And Plaintiffs could have begun to notice depositions for the witnesses they are sure to depose even if limited to ten depositions. Instead, Plaintiffs waited until two days ago, May 15, to notice their first deposition (a Rule 30(b)(6) deposition of iFinex Inc).

Respectfully submitted,

/s/ Elliot Greenfield